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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 12-09229 GAF (FFMx)	Date	January 25, 2013
Title	ThermoLife International LLC v. Better Body Sports LLC et al		

Present: The Honorable	**GARY ALLEN FEESS**	
Renee Fisher	None	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiff:	Attorneys Present for Defendant:	
None	None	

Proceedings: **(In Chambers)**

ORDER TO SHOW CAUSE RE: JOINDER

Plaintiff Thermolife International, LLC ("Thermolife"), brings suit for patent infringement against Defendants Better Body Sports, LLC; Bio-Engineered Supplements and Nutrition, Inc.; Allmax Nutrition Inc.; Bronson Laboratories, Inc.; Engineered Sports Technology, LLC; Hi-Tech Pharmaceuticals, Inc.; Infinite Labs, LLC; Lecheek, LLC; Maximum Human Performance, LLC; Muscle Warfare, Inc.; Nutrex Research, Inc.; Pharmafreak Holdings Inc.; Purus Labs, Inc.; Reaction Nutrition, LLC; Redefine Nutrition LLC; SNI, LLC; Tiger Fitness Inc.; Lone Star Distribution; and All Star Health. (Docket No. 1 [Complaint ("Compl.")].)

Thermolife "is the owner and assignee of United States Patent No. 8,202,908 ("the '908 patent") titled "D-Aspartic Acid Supplement." (Id. ¶ 2.) Thermolife alleges that Defendants manufacture, sell, and distribute products that infringe the '908 patent. (Id. ¶¶ 26–38.) However, the Court is not convinced that joinder of all the defendants in this action is proper.

Congress recently addressed the issue of joinder in patent cases in section 19 of the Leahy-Smith America Invents Act, 35 U.S.C. § 299. See Leahy-Smith America Invents Act, Pub. L. No. 112–29, sec. 19(d), § 299, 125 (Stat. 284, 332–33 (2011)). Section 299 provides, in relevant part,

> [P]arties that are accused infringers may be joined in one action as defendants . . . only if –

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> (1) any right to relief is asserted against the parties jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product or process; and
>
> (2) questions of fact common to all defendants . . . will arise in the action.

35 U.S.C. § 299(a)(1)–(2). Furthermore, "accused infringers may not be joined in one action as defendants . . . based solely on allegations that they each have infringed the patent or patents in suit." (Id. § 299(b).)

Here, Thermolife has identified seventeen infringing products, each of which appears to have been developed and manufactured by a different defendant. And Thermolife has alleged no relationship between the defendants other than that they have each infringed the '908 patent and that some of them use the same distributors—All Star and Lone Star—to sell their allegedly infringing products. (Compl. ¶¶ 36–37.) The Court is therefore not convinced that joinder of the defendants in this case is proper.

Accordingly, Thermolife is **ORDERED TO SHOW CAUSE** why joinder of the defendants in this action is proper **no later than close of business Friday, February 8, 2013.**

IT IS SO ORDERED.